

REMARKS

Applicants respectfully request reconsideration of the instant claims in view of the foregoing amendments and the following remarks.

Claims 1, 3, 6, 8, 11, 26, 28, 42-47 and 49 are pending in this application. To expedite prosecution of the application, claims 11 and 49 have been amended. No new matter has been added. No new issues of patentability are raised by the instant amendments.

Applicants urge that the instant claims are in condition for allowance. Favorable consideration is respectfully requested.

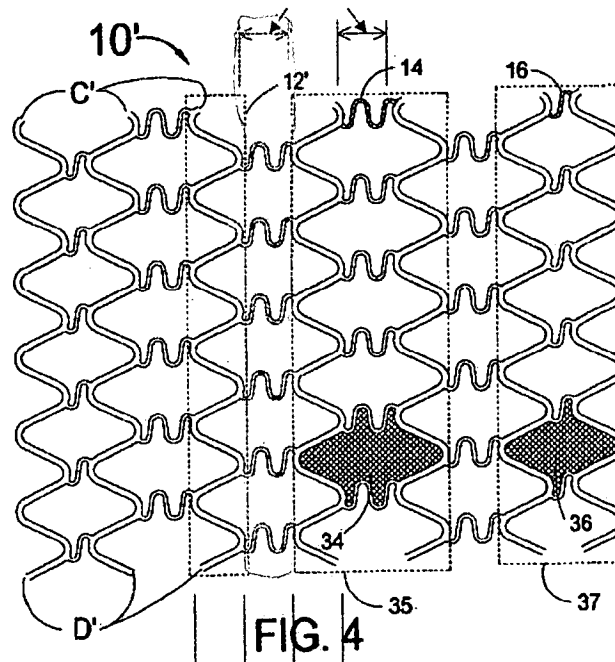
Response To Rejection Under 35 U.S.C. §102(e) Based On Fischell

Claims 1, 6, 42-47 and 49 have been rejected under 35 U.S.C. §102(e) as anticipated by Fischell (USP 6,190,403). Applicants respectfully disagree with this rejection.

The Examiner has taken the position that the term "oriented" does not confer any limitation onto the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup>-loop containing sections (or 1<sup>st</sup> or 2<sup>nd</sup> circumferential bands). On this basis, the Examiner alleges that Fischell Fig. 4 reads on the instant claims. Applicants respectfully disagree and assert, as presented in the response dated Sept. 8, 2006, that the term "oriented" has a plain meaning that the loops are extending in the circumferential direction. However, to expedite prosecution of the instant claims, applicants amended the claims to use the term "extending", demonstrating that the loop containing sections or circumferential bands stretch around the circumference of the stent.

In any event, applicants respectfully point out that in addition to the term "extending", the instant claims also require that the second, higher frequency loop-containing sections (or circumferential bands) are each "formed of a single, continuous, generally sinusoidal pattern" (see claim 1, part d, line 2; claim 6, part b, line 2; claim 11, part c, line 4; claim 49, part 4, line 2). Shown below is Fischell figure 4, with what the

Examiner calls the 3<sup>rd</sup> loop containing section (or 1<sup>st</sup> circumferential band) highlighted. As can be seen, this portion in Fischell is not formed of a single, continuous generally sinusoidal pattern as required by the claims.



Rather, this portion of the Fischell stent comprises a plurality of short segments, which are quite the opposite of a “single”, “continuous” segment as required by the claims. In addition, it is clear from Fischell Figure 4, no other section of this stent qualifies as a 3<sup>rd</sup> loop containing section or 1<sup>st</sup> circumferential band, because only these plurality of short segments arguably have a higher frequency pattern as compared to the other parts of the Fischell stent. For these reasons, applicants believe that the Fischell reference does not teach or suggest the instant claims. Therefore, applicants respectfully request reconsideration and withdrawal of this §102(e) rejection.

Response to Rejections under 35 U.S.C. §103

1. Jayaraman in view of Von Oepen

Claims 1, 6, 11, 42-47 and 49 have been rejected under 35 U.S.C. §103(a) as obvious over Jayaraman in view of Von Oepen. Applicants respectfully disagree with this rejection.

The Examiner asserts that Jayaraman describes a stent having 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> loop containing sections (or 1<sup>st</sup> and 2<sup>nd</sup> circumferential bands). In this regard, the Examiner states that “cells under the tension condition will open in length and narrow circumferentially and cells under the compression condition will shorten in length but widen circumferentially.” (Official Action, dated 3/28/07, p. 6, ¶1b, emphasis added). Whether or not this statement is correct as it relates to cells, it is irrelevant to the claims at issue. The claim language requires that a particular **part** of the cell contribute to the cell's elongating or shortening when the stent is flexed. In particular, the claims recite the following claim language:

Claim 1, part e:

“components of said third loop containing section contribute to the cell's elongating or shortening when the stent is flexed.”

Claim 6, part c:

“second circumferential bands contribute more than first circumferential bands to deformation during flexing of the stent”.

Claim 11, part d:

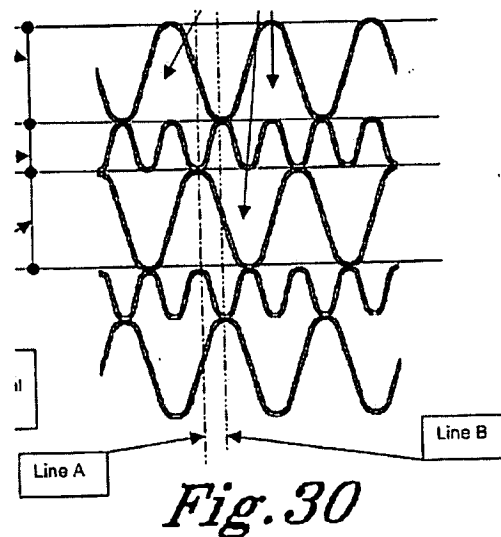
“components of the third loop containing section contribute to the cell's elongating or shortening when the stent is flexed resulting in a substantially constant stent cell area on the inside and outside of the curve” (emphasis added).

Neither Jayaraman nor Von Oepen teach or suggest a stent having high and low frequency bands or loop containing sections wherein the high frequency bands/sections contribute to the elongating or shortening of the stent. Generally, the high frequency bands are less flexible than the low frequency bands due to the additional metal per unit space and therefore do not contribute to a stent's ability to flex. However, the present invention recognized that by modifying the structure of the high and low frequency bands, a stent can be produced which allows the high frequency bands to absorb the changes in structure due to flexing or bending. Neither Jayaraman nor Von Oepen taken individually or in combination teach this concept or this resulting stent structure.

Regarding claim 49, the Examiner asserts that “in a collapsed configuration for deployment/before expansion, lines A and B [in Jayaraman] are substantially closed

one to another to make two low frequency adjacent bands out of phase 180°.

Applicants respectfully disagree with this position. However, in order to expedite prosecution of this claim, applicants amended claim 49 to recite that the structural features must be present in both the unexpanded and the expanded state. As shown in Jayaraman Figure 30 below, the low frequency bands are not 180° out of phase once the stent is expanded and therefore fail to teach or suggest the instant claim. In addition, neither Jayaraman nor Von Oepen teach or suggest a structure wherein the low frequency bands are 180° out of phase with each other both before and after expansion.



For these reasons, applicants respectfully request reconsideration and withdrawal of this §103(a) rejection.

2. Jayaraman and Von Oepen in view of Yang

Claims 3 and 6 have been rejected under 35 U.S.C. §103(a) as being obvious over Jayaraman and Von Oepen as applied to claims 1 and 6, further in view of Yang. Applicants respectfully disagree with this rejection.

Claims 3 and 8 are dependent from claims 1 and 6 respectively. Applicants assert that these independent claims are not obvious over Jayaraman in view of Von Oepen as discussed in detail above. Briefly, neither Jayaraman nor Von Oepen teach

or suggest a stent capable of allowing flexing in a bend through specific use of the high frequency bands (or loop-containing sections), as recited in the claims. For this reason, claim 1 and 6, and all claims depending from those claims are not rendered obvious by the cited prior art. Therefore, claims 3 and 8 are not obvious, regardless of the Yang reference. Applicants respectfully request reconsideration and withdrawal of this §103 rejection.

3. Brown in view of Von Oepen

Claim 26 has been rejected under 35 U.S.C. §103(a) as obvious over Brown in view of Von Oepen. Applicants respectfully disagree with this rejection.

Claim 26 is directed to a stent wherein each cell in the stent "consists essentially of" a ten-membered cell. "Consisting essentially of" language is largely closed claim language and therefore excludes the 18-membered cell structure shown in Figure 2 of the Brown reference. In addition, part o of claim 26 specifically recites that the "first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth members form one of a uniform pattern of flexible cells", making clear that the ten membered structure forms a single cell. Brown does not teach or suggest a stent having a uniform pattern of cells, wherein each cell consists essentially of ten members. Applicants respectfully request reconsideration and withdrawal of this §103(a) rejection.

CONCLUSION

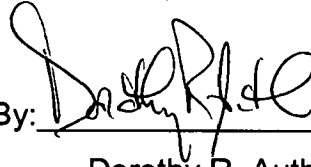
As discussed in detail above, the present invention as recited in the instant claims is believed patentable over the cited prior art. Applicants respectfully request reconsideration and withdrawal of the pending rejections. Early and favorable action is respectfully requested. If any further issue remain, the Examiner is invited to contact the undersigned personally.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment from the ETF Account with JP Morgan Chase No. 967-707218.

Dated: September 28, 2007

Respectfully Submitted,  
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